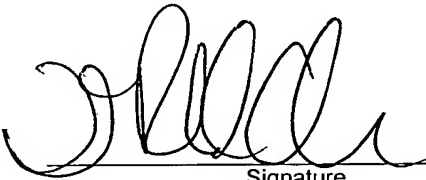




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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1163-0479P	
	Application Number 10/698,481-Conf. #3225	Filed November 3, 2003	
	First Named Inventor Hideaki MURAKAMI		
	Art Unit 3683	Examiner M. Torres	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached four (4) sheets. Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>40,439</u></p> <div style="text-align: right;"> Signature <u>D. Richard Anderson</u> Typed or printed name <u>(703) 205-8000</u> Telephone number <u>February 24, 2006</u> Date</div>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			



Docket No.: 1163-0479P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Hideaki MURAKAMI

Application No.: 10/698,481

Confirmation No.: 3225

Filed: November 3, 2003

Art Unit: 3683

For: CUSHIONING BODY

Examiner: M. Torres

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being concurrently filed with a Notice of Appeal.

This review is being requested for the reasons set forth in the attached four (4) sheets.

The Examiner has made clear errors in interpreting and applying the prior art in rejecting claims 1, 5, 6, 8-10, and 13 under 35 USC §102(b) as being anticipated by US Patent No. 6,740,606 to Umezawa ("Umezawa").

The examiner has Failed to Establish a *Prima Facie* Case of Anticipation by Failing to Provide References that Disclose all of the Claimed Elements.

The Examiner has made clear errors in interpreting the teachings of the prior art. With respect to independent claims 1 and 13, the Examiner asserts that Umezawa teaches a heat-radiation elastic member capable of being arranged around an electromagnetic wave-generating unit to provide cushioning for protection from physical shock. The Examiner asserts that support for the rejection may be found in the fourth embodiment provided by Umezawa at column 14, lines 5-32.

The Examiner further maintains in the Advisory Action provided February 14, 2006, that she "disagrees with Applicant's argument that a sheet comprised of 'elastomer' and 'rubber' as disclosed in the prior art does not provide cushioning. These properties are well known in the art."

Applicant respectfully asserts that Umezawa merely discloses a laminated sheet and a process of making said sheet, which yields electromagnetic waves by embedding a conductive mesh 3 within a thermoplastic resin layer 2 for forming the laminated sheet (column 3, lines 4-7; Fig. 3). Umezawa further discloses a variety of different embodiments, wherein the thermoplastic sheet has different hardness properties. For example, one embodiment utilizes an

acrylic-type thermoplastic resin combination having superior surface hardness, weather resistance, transparency, flexibility, and load temperature characteristics (column 5, lines 16-20).

In embodiment 4, Umezawa discloses utilizing a thermoplastic resin sheet 12, which is an olefin-type elastomer sheet containing 40 parts by weight of JSR DYNARON and 60 parts by weight of polypropylene. While this material may have flexible properties and may not be as hard as the other embodiments disclosed by the Umezawa, Applicant maintains Umezawa fails to disclose “a heat radiating elastic member ... to provide cushioning for protection from physical shock ...,” as recited in claims 1 and 13 (emphasis added).

The Examiner asserts that in embodiment 4, the use of rubber would inherently provide cushioning for protection from physical shock. Applicant respectfully disagrees with the Examiner and submits that this interpretation is clearly flawed.

Umezawa is silent with respect to using the thermoplastic resin sheet 12 as a cushioning member. Umezawa discloses that the thickness of resin sheet is merely .2 mm, which is clearly too thin to provide cushioning from physical shock. As Umezawa further discloses, the laminated sheet of this thickness is cut to a desired size and fitted to the window of a portable telephone to be used as an electromagnetic wave shielding window (column 14, lines 29-32). The application of this embodiment in no way contemplates a cushioning function, nor is it inherent given the sparse thickness of the material.

As further evidence that Umezawa’s electromagnetic shielding, thermoplastic laminated sheets do not provide cushioning properties, Umezawa discloses in embodiment 5 that during the manufacturing of such sheets, a cushion material of silicon rubber which is 3 mm thick is positioned on the surface of a metal bottom molding plate 10. If the laminate sheets, as the

Examiner asserts, had cushioning properties, there would be no need to supply a 3 mm thick sheet of silicon rubber as a cushioning material during the laminate sheets' manufacture. (See column 14, lines 53-57.) Applicant therefore submits that Umezawa actually teaches away from having the thermoplastic resin sheet providing cushioning from physical shock and vibration.

In embodiment 3, Umezawa further discloses a soft laminated sheet 1 in which one side of a conductive mesh is embedded in one side of the uniform resin layer which comprises an acrylic-type resin containing hydrogenated elastomer. As with the previously discussed embodiment, the thickness of the resin layer 2 is approximately .2 mm. (See column 13, lines 34-39; Figs. 3 and 4.) Furthermore, the laminated sheet disclosed in embodiment 3 is soft at room temperature and flexible so it could withstand folding and bending, and could be easily cut using sewing scissors (column 13, lines 58-62). For embodiment 3, Umezawa discloses using a plurality of such soft laminated sheets to fashion a bag-shaped cover. This bag-shaped cover was used as an electromagnetic wave shielding to cover material for medical devices. In this embodiment, similar to the embodiment 4 discussed above, the laminated sheets were too thin to provide cushioning from protection from physical shock.

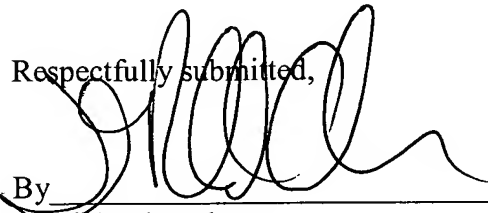
Accordingly, Applicant respectfully submits that the Examiner clearly erred in interpreting Umezawa by asserting that it disclosed "a heat radiating elastic member ... to provide cushioning for protection from physical shock ...," as recited in claims 1 and 13. Because Umezawa fails to teach each and every element recited in claims 1 and 13, it cannot be used as an anticipatory reference, and the §102 rejection based on this reference must be withdrawn.

Conclusion

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Da
Date: February 24, 2006

Respectfully submitted,



By _____

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